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Committee Chair
Senate Legal and Constitutional Affairs Committee
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Parliament House
Canberra ACT 2600

Dear Chair

The Home Affairs Portfolio appeared at the Senate Estimates Legal and Constitutional Affairs Committee hearing on 4 April 2022.

In my capacity as First Assistant Secretary, Refugee, Humanitarian and Settlement Division, I gave evidence to the Senate and have reviewed the Hansard record. In relation to my testimony, I have become aware of the need to clarify a few of the responses I made to questions from Senator David Van.

The first reference is on page 8 and follows Secretary Pezzullo's initial response. Senator Van asked;

I think we touched on some of these last week. Secretary, can you explain what the government is doing to support Ukrainian displaced persons arriving in Australia?

My response to this question included;

There's a range of services available that are dependent on the visa category which people are on... Currently, children can go to school, and services are being provided as requested.

While this is correct, I feel it important to clarify that while normally children on Visitor visas do not have access to schooling, the Deputy Secretary of the Department of Education, Skills and Employment wrote to her State and Territory counterparts asking them to allow access if requested by Ukrainians (regardless of visa category) as they will end up on a Temporary Humanitarian Concern (subclass 786) visa. Ukrainian students on this visa will be able to meet the eligibility requirements to be included in the school census in August and therefore attract Commonwealth recurrent funding.

My response to this question also included;

We will be going out in two stages. Firstly, obviously, we have to do a bar lift process, under 91K of the Migration Act, to enable them to be given a 449. Once they get their 449, they'll have work rights, and then the next step, which follows very quickly because of the checks we have to do at the 449 stage, around national security—the standard character checks. Once they're done, we do the grant and then immediately go back to say, 'Would you like a 786?'

A correction is required as, the bar lift referred to is actually to transition from the subclass 449 visa onto the subclass 786 visa.

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The second reference is also on page 8. Senator Van asked;

How long (is the prescribed period a subclass 786 visa is valid)

My response to this question was;

Up to three years—that the Minister has agreed to. The visa itself doesn't have a prescribed period, but the Minister has said up to three years for Ukrainians who wish to go down that path. So, again, they get their 449. We then do a subsequent bar lift for those who say, 'Yes, I would like a 786.' We do the checks required. There's a mandatory health check at that point. That's obviously around communicable diseases, to protect Australia and also just to make sure that people are in good health. Then there's the grant of the 786.

The Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs agreed to three years, we should add that this is the regulated maximum, but it can be for any period up to this that the Minister agrees to.

I appreciate the opportunity to provide these clarifications, which will ensure the correct information has been provided to the Senate Legal and Constitutional Affairs Committee.

Yours sincerely

David Wilden
First Assistant Secretary
Refugee Humanitarian & Settlement Division
24 May 2022